



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,049	09/26/2003	Rod Power	635-001	7144

7590 11/16/2005

KRISTOFER E. HALVORSON
THE HALVORSON LAW FIRM, P.C.
1757 E. BASELINE RD. STE 130
GILBERT, AZ 85233

EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,049

Applicant(s)

POWER, ROD

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 28-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings filed 29 August 2009 are accepted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 11, 13-20, 27 are rejected under 35 U.S.C. §102(b) as being anticipated by O'Brien et al. (US 2,798,354).

As to Claims 1 and 13, O'Brien et al. disclose a tree shaping guide Figs. 1-9) comprising an elongated support (12 of Figs. 3 and 4) comprising two spaced posts (the two telescoping supports to which the leadline of 12 is pointing in Fig. 7) and a cross member (48 of Fig. 7) with a restraint mechanism (44 of Fig. 7) substantially centrally located (shown in Fig. 7) such that the restraint mechanism can centrally fit around and be restrained to an object to be shaped extending between the two spaced posts for strength (in that 44 can be placed next to or abut an object to be shaped and is capable of being restrained to the object by, for example, twine) positionable adjacent an object to be shaped; one shaped guide (100, 50, 52 of Figs. 3 and 7); and a connection mechanism (40 and 42 of Figs. 4 and 7) connecting the shaped guide to the elongated support, which comprises movement elements (edges of 100 of Fig. 7) to allow the

Art Unit: 3643

shaped guide to move relative to the elongated support; wherein the shaped guide allows movement along a shaped path (movement of 100 in Fig. 7) and enables a user to operate a cutting mechanism to shape an object; and, wherein the combination of the shaped guide and support enable a user to operate a cutting mechanism to shape an object.

As to claim 2, O'Brien et al. further disclose the elongated support as a telescopic post (12, 28, and 32 of Fig. 3) with the shaped guide being mounted on the top end (Fig. 3) of the post.

As to claims 3 and 4, O'Brien et al. further disclose the elongated support on a stand (16 of Figs. 3 and 4) with movement mechanism (24 of Fig. 3).

As to claims 11 and 27, O'Brien et al. further disclose a cutting mechanism (62 of Fig. 3) slidable along the shaped guide.

As to claim 14, O'Brien et al. further disclose the connection mechanism allowing releasable connection (by 50 and 52 of Fig. 7) between the one or more shaped guides and the support.

As to claim 15, O'Brien et al. further disclose the connection mechanism allowing releasable connection (by 52 and other bolts of Fig. 7) simultaneously between a plurality of shaped guides and the support.

As to claim 16, O'Brien et al. further disclose the connection mechanism allowing separate movement (inherent in Fig. 3) of the plurality of shaped guides.

As to claim 17, O'Brien et al. further disclose the connection mechanism allowing releasable connection (edges of 100 for the three shaped guides) between the one or more shaped guides and the support.

Art Unit: 3643

As to claim 18, O'Brien et al. further disclose the support as a elongated telescopic post (12, 28, and 32 of Fig. 3) with the shaped guide being mounted on the top end (Fig. 3) of the post.

As to claims 19 and 20, O'Brien et al. further disclose the elongated support on a stand (16 of Figs. 3 and 4) with movement mechanism (24 of Fig. 3).

Claims 13 and 14 are rejected under 35 U.S.C. §102(b) as being anticipated by Uhor (US 3,487,614).

As to Claim 13, Uhor disclose a tree shaping guide (Figs. 1-8) comprising a support (24 of Fig. 1) comprising two spaced posts (34 of Fig. 1) and a cross member (76 of Fig. 1) with a restraint mechanism (88 of Fig. 1) substantially centrally located (shown in Fig. 1) such that the restraint mechanism can centrally fit around and be restrained to an object to be shaped extending between the two spaced posts for strength (in that 88 can be placed next to or abut an object to be shaped and is capable of being restrained to the object by, for example, twine) positionable adjacent an object to be shaped; one shaped guide (128 of Fig. 1); and a connection mechanism (76, 88, 100, 124 of Figs. 1 and 4) connecting the shaped guide to the elongated support, wherein the combination of shaped guide and support enables a user to operate a cutting mechanism to shape the object (col. 6 lines 3-9).

As to claim 14, Uhor further disclose the connection mechanism allowing releasable connection (see 128 in Figs. 4 and 8).

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10, 21-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over O'Brien et al. (US 2,798,354) in view of Uhor (US 3,487,614).

As to claims 5, 7, 9, 21, 23, 25, the limitations of Claims 1 and 13 are disclosed as described above. O'Brien et al. further disclose the shaped guide comprising at least one elongated shaped member (blades of 62 of Fig. 3). Not disclosed is the at least one additional elongated shaped member with at least one curved portion; forming a partial circumference of a sphere; an exoskeletal shaped member. Uhor, however, discloses an additional elongated shaped member with a curved portion (128 of Fig. 1), forming a partial circumference of a sphere, an exoskeletal shaped member (guide), and the connection allowing pivotal movement (inherent from 26 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the guide of O'Brien by using the elongated shaped member of Uhor so as to readily control the trimming and shaping of the shrub (col. 1 lines 40-43).

As to claims 6 and 22, the limitations of Claim 1 and 13 are disclosed as described above. Not disclosed is the shaped guide with a plurality of comb-like slits. Uhor, however, discloses an elongated shaped member with any shape depending upon the desires of the home owner (col. 6 lines 40-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the guide of O'Brien by using one with a plurality of comb-like slits as

Art Unit: 3643

disclosed by Uhor so as to readily control the trimming and shaping of the shrub (col. 1 lines 40-43) and to add comb-like slits so as to have better cutting action.

As to claim 8 and 24, the limitations of Claims 5 and 17 are disclosed as described above. Not disclosed are a plurality of elongated shaped members forming an exoskeletal partial circumference. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the guide of O'Brien as modified by Uhor by having a plurality of elongated shaped members of Uhor so as to more quick finish the job of trimming and shaping the shrub.

As to claims 10 and 26, O'Brien as modified by Uhor further disclose a movement elements allowing rotational movement (114, etc of Fig. 1 of Uhor).

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Uhor (US 3,487,614) in view of Suter (CH 599744).

As to claim 12, Uhor discloses a tree shrub shaping device (Figs. 1 and 2) comprising an elongated support comprising two spaced posts (24 of Fig. 1) each with an elongated linear foot (28 of Fig. 1) that forms an inverted T shape (Fig. 1), the posts being positionable adjacent an object (Fig. 1) to be shaped and having a cross member (67 of Fig. 1) extending between the two spaced posts for strength, the member further comprising a restraint mechanism (88 of Fig. 1) substantially located such that the restraint mechanism can fit around and restrain an object to be shaped; and, a shaped substantially semi-circular curved guide (128 of Fig. 10) mounted by a connection mechanism (82 and 84 of Fig. 1) connecting the shaped guide to a top of the elongated posts and further comprising movement elements (124 and 100 of Fig. 1) that allow

Art Unit: 3643

the shaped guide to move pivotally relative to the elongated support such that the shaped guide follows a ball shape (Fig. 1) around the object and that is employable to enable a user to operate a cutting mechanism (col. 6 lines 4-9) to shape the object. Not disclosed are the legs being telescoping. Suter, however, discloses the use of telescoping legs (Fig.) on a hedge clipping guide device (see abstract in English). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the guide of Uhor by using telescoping legs as disclosed by Suter so that the guide can be used with plants of varying heights.

Claims 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Uhor (US 3,487,614).

As to claim 15, the limitations of Claim 13 are disclosed as described above. Uhor further discloses the connection mechanism being releasable (see 128 in Figs. 4 and 8). Not disclosed are a plurality of elongated shaped members that are releasable simultaneously. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the guide of Uhor by having a plurality of elongated shaped members so as to more quickly finish the job of trimming and shaping the shrub and to have them all.

Response to Arguments

Applicant's arguments filed 29 August 2005 have been fully considered but they are not persuasive. Applicant's arguments are: (1) claims 1 and 13 have been amended to claim "two spaced posts . . . post for strength" that O'Brien et al. does not disclose (Remarks page 16, complete page); (2) claim 13 has been amended to claim "two spaced posts . . . post for strength" that Uhor does not disclose (Remarks page 20, top half of page); (3) no motivation to

Art Unit: 3643

combine the elongated shaped member with curved portion of Uhor with the trimming device of O'Brien et al. (1st complete para of page 21); (4) no motivation in either O'Brien et al. or Uhor for comb-like slits (Remarks page 21, 2nd and 3rd complete para.); (5) Uhor does not disclose a elongated linear foot that forms an inverted T shape (Remarks page 22, last two lines); and, (6) neither Uhor or Suter disclose a restraint mechanism substantially located such that the restraint mechanism can fit around and be restrained to an object (Remarks page 23, top 10 lines).

As to argument (1), Examiner considers O'Brien et al. to disclose a restraint mechanism as stated in the rejection that is capable of centrally fitting around (in the sense of being close to or abutting an object) and capable of being restrained to the object.

As to argument (2), Examiner considers Uhor to disclose a restraint mechanism as stated in the rejection that is capable of centrally fitting around (in the sense of being close to or abutting an object) and capable of being restrained to the object.

As to argument (3), Examiner considers there to be motivation to combine O'Brian and Uhor because both are in the area of hedge trimming. It would be obvious to interchange blades so as to create different shaped edges of vegetation.

As to argument (4), there is motivation to make any blade with teeth (comb-like slits) since teeth are well know in the cutting means arts.

As to argument (5), Examiner considers the combination of 34 and 28 in Fig. 1 of Uhor to be an inverted T shape. The view of Fig. 1 shows 34 and 28 to be an inverted T.

As to argument (6), Examiner considers Uhor to disclose a restraint mechanism as described in the rejection.

Art Unit: 3643

Conclusion

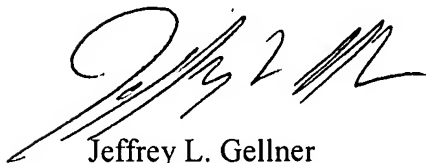
THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. L. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner
Primary Examiner
Art Unit 3643